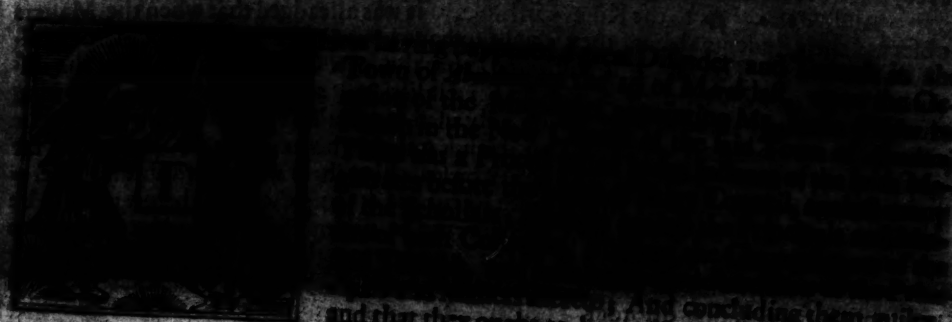

and that they ought to be punished as Art and Part.

When this Process was called, many of the Students were absent, and the Libel with a Reconvention raised by the Masters for their own Defence, were admitted to Probation before a Committee.

The Probation adduced by either party being now taken, The Cause is ready to be advised.

The Principals and Masters are not to trouble the Lords of Privy Council with a Relation of the Libel, concerning the Circumstances of the Tumult and Rabble committed by the Students and others: For albeit many of the Particulars Libelled be not proven, yet it was from the beginning acknowledged, that there was a Tumult upon the Occasion foresaid whereof the Principals and Masters were not only Innocent, But they did ever testify their abhorrance of such Methods of Rabbling upon any Occasion, Especially upon the LORDS Day, which they consider as an open Contempt, not only to Civil Authority, and the flourishing of Letters, But also to be carefully with the Reverence and Honour due to the Divine Majesty. And therefore they neither did nor will Palliat or Alleviat any Circumstance of all that is Libelled against these who were accessory to the Tumult, but singly clear themselves of any Guilt or Accession thereto; And shall endeavour to satisfy the Privy Council, that they had used their outmost endeavour to prevent any such Disorder, and restrain the Students from being Interested in it, and that they had punished these who were guilty, with the greatest severity that the Rules, or Foundations, or any former Precedent in either Colledge did allow.

The points libelled against the Masters of either Colledges, were either for making appear their accession to, or countenancing of the Rabble, or their negligence in restraining and punishing of the guilty.

As to the Defenders Accession, There is nothing at all proven against the Principals or Masters of either Colledge, nor was there so much as one Interrogatur offered to the Witnesses to fix a guilt upon any of them, except Mr. *Robert Paterson*, the Principal of the *Marischal* Colledge, and there are particular satisfying Answers subjoyned for clearing him of any guilt that can be imported from the Depositions of the Witnesses, as to his Part.

It is also clear, That the Masters did use all possible means to prevent that Disorder, in so far as the Students of either Colledges were conveened, either in the Common hall or in their several Classes, and were there Admonished by the Masters or Principals, that they should neither occasion or be assisting in any disorder, nor be present at the New Church, holding forth the bad consequences that might follow both to themselves, and their Parents: And likewise that they employed such of their Scholars, and Pedagogues, and Governours, as might have most influence to divert them from any irregular course. And farder, upon the Sabboth, the Masters of the Kings Colledge being accustomed to go along with the Students from the Colledge to the Church; They were careful to shut the Colledge gates, and to call all that were within to the Common-School, and to mark the Absents, which was very useful to discover these who were interested in the Tumult. And the Masters of the *Marischal* Colledge, not being accustomed to conveen their Scholars, and to go in a body to the Church, they went orderly to the Loft appointed for the Masters and Students; And so soon as the Scholars came in, were careful to lock the door of the loft, that these who came once in, could not get out. Tho it be clearly proven, that several attempts were made by the Scholars within to escape out of the loft, so that if they could not reclaim such as had [illegible] of their subjection and Obedience for a time, they at least restrained all [illegible] their power.

When the Rabble was ended, ſome time was ſpent in communing with the Magiſtrats for laying down ſuch rules as might prevent the like in time coming, and annent the manner of puniſhing what was paſt; And that communing having taken no effect, every ſingle perſon that was guilty, was publickly whiped with as great ſeverity and ſhame to them, as ever was practiſed in the Colledge: And that none might eſcape; Intimation was made to the Magiſtrats, before the Maſters proceeded to diſcipline, that they might affoord what evidence they could.

Nothing was inſinuate by the Libel or ſince, for loading the Maſters of either Colledge with any Acceſſion or ſo much as negligence in the matter; But what may be clearly elided by the probation and relation abovementioned: But for removing everyſhadow. The maſters ſhal more particularly anſwer the ſeveral grounds inſiſted on.

And, 1*mo.* As to the Kings Colledge, it was alleadged that when the Maſters obſerved their ſtudents abſent, they ought to have gone to ſearch after them, or cauſed do the ſame. To this it is Anſwered, that the new Church being above the diſtance of a Mile without their bounds and juriſdiction, and the Maſters not knowing that there was any diſorder, But having only uſed precaution for preventing it. Their care was more prudently employed for retaining theſe who remained, being the far greater part, than to expoſe their authority by ſearching theſe who were abſent, whereby theſe who remained were much more liketo break looſe, then the abſents were to be reclaimed,. Beſides the full number uſes never to be preſent; Some being accuſtomed to go to meeting houſes, others to ſtay in the Town; And the Maſters had never any Information of the tumult, till both the Sermon, and it was ended; and what they did was only for preventing diſorder.

As to the *Mariſchal* Colledge, It is Alleadged againſt all the Maſters, that the tumult having happened in the new Church, devided only by a Partition-wall from the Church where they ſat, they uſed no means to reſtrain the Rabble; And farther, that *Kincouſies* Son one of the Rabble, having entered to the Church, where the Principal and Maſters were, with a drawn ſword in his hand, and having gone to Mr. *Burnet* Miniſter, then ſitting at the Pulpit, deſired him to preach in the New Church, yet the Maſters did not apprehend or reſtrain him. 2*do.* That Mr. *Alexander Moor* the Youngeſt Regent, having offered to go out of the Loft, to ſeize upon that irregular Student, the Principal would not ſuffer it, as the ſaid Regent declared to one of the Witneſſes.

It is anſwered, 1*mo.* The probation clears that the Rabble and Tumult was ſo great, as to diſſipate the whole Congregation, And this Rabble was compoſed not only of the Students of both Colledges, but of the Inhabitants of the Town, over whom the Principal and Maſters of the *Mariſchal* Colledge had no influence, ſo that if they ſhould have attempted to diſſipate the Rabble, who could not be reſtrained, by the Reſpect that was due to the worſhip of GOD, when the People were ſinging Pſalms; They had no reaſon to believe that their appearing would have had any other Effect, then to make their Authority contemptible. And Experience teaches, That a Rabble is not to be compelced, but either by Force or courſe of time. 2*do.* Principal *Paterſon* had mixed himſelf with a former Rabble, for reclaiming of certain Students, and that was interprete to be a Crime, and upon which he was called before the *Privy Counell*, as an Abbater of that Rabble, from which he was Aſſoilzied by the Juſtice of the *Privy Council*, after long Attendance, aud much Expence, which taught him that Prudence not to meddle or immix himſelf with a Rabble again: And really many Beholders may more eaſily obſerve who are amongſt the Rabble, then what part they act in it; And therefore he did abſtain from joining any manner of way with that irregular Company; But it is very hard upon him, that he ſhould firſt be purſued by the Magiſtrates, becauſe he Did, And again, becauſe hid Did Not, go towards or immix with a Rabble, to reclaim his Scholars; So that either ſide of the contradiction is made a crime to him. 3*tio.* The Witneſſes clear, And it is alſo evident by an inſtrument taken by the Magiſtrates, That the Rabble ſhut the whole doors of the New Church, and would not ſuffer the Magiſtrates or others to have Acceſs.

4*to.* As to what relates to *James Irving Kincouſſies* ſon; It is true he entered the Church, where the Maſters were, in a moſt Irregular manner, whither with a Sword or not, doth not clearly appear; But it was not poſſible to reſtrain or ſecure him. For 1*mo.* The Witneſſes Depone he remained only two Minuts in the Church, and then run out to his Accomplices; in which time it was impoſſible to have reached him, the Maſters Loft being at a great diſtance, and Mr. *Burnet* the Miniſter doth ſpecially Depone, that the Maſters could not poſſibly have come his length. 2*do.* It had been undecent and improper for the Maſters to have made Noiſe and Diſturbance in the Church, during the moment he ſtayed, which would have increaſed the Diſorder, neither were they in ſafety to meddle with him, all his Accomplices being in the Church-yard; and theſe who attempt upon one ſingle perſon concerned in a Rabble muſt expect the furry of all who are Intereſted in it. 3*tio.* The Depoſitions of the Witneſſes clear, that theſe who were within the Loft, and under ſome meaſure of Obedience (who were three fourth parts of the whole) made ſeveral Attempts to open the Loft door and eſcape; And if any of the Maſters had made the door open, it was obvious that theſe who attempted to get out, would then have gone and joyned with

the

the Rabble; So that there was a more apparent danger, that these who remained in Subjection, would throw off the same, than that others of their Schollars who were but a small part of the whole would be reclaimed. 4to. As to the alleageance that one of the Regents offered to remove to secure *Kinoussies* son, and was hindered by the Principal. It is answered, this is only Deponed by a single Witness, *ex auditu*, who sayes, that Mr. *Alexander More* Regent declared so to him. But farder the Principal is content that Mr. *More* be examined, who will Depone that the thing is false in Fact, and that the Principal never spoke to him upon that Subject, and the Principal is content to purge himself upon Oath, and it carrys no probability in it self, Mr. *More* being at a considerable distance, three Elder Regents Interveening betwixt him and the Principal, who could not but have heard what was spoken to him, neither is it of import, tho the Principal had said it, Because it was neither prudence in him, nor in any of the Regents, to have given opportunity to the *Students* within the Loft, to have escaped by opening the Door.

It is farder alledged against Principal *Paterson*, two Witnesses have deponed, that he said the Best and Worst of the Rabble was Extrusion.

To this it is answered, *1mo.* None of the Witnesses do Depone, that they heard the Principal say so; But one of them declares he heard some Students say, that they heard the Principal say it, but that he does not know, who were these *Students*; Another Witness Deponer, he heard two of the *Students* whom he names, say it, But neither of these Witnesses are *probative*, both being *ex auditu*, that they heard men say, that the Principal said so, and Oaths only and not Assertions are probative: But farder, To satisfy the Privy Council, that the thing is false on the matter, the Principal is willing to purge himself upon Oath, that he never layd any such thing, and that he never spoke with the persons who are alleadged to have heard it. And albeit no party be bound to undergo two manners of Probation, both by Oath and Witnesses, yet he is willing to undergo both.

It is farder alleadged against Principal *Partterson*, It is deponed against him, That he said, he saw the Rabble go by Clerk *Hayes* house, and saw *Kineaussies* son joyn with them.

To this it is answered, *1mo.* There is only a single Testimony as to this point, and so not *probative*, *2do.* Tho he had seen the rabble, it did import nothing, seeing it was not in his power to restrain it, but as it hath been formerly said, the *Students* in the Colledge whereof he was principal had thrown off the *Masters* Authority, And they were but a very small part of the whole rabble, so that it was neither possible to restrain, nor prudence to have medled with them, but his care was exerciled in retaining these who remained from joyning with the rest.

And as to what is lybelled, That an Indignity was done to the Magistrats at *Dunn's* Son's burial, it is clear by the depositions of the Witnesses, that the Masters endeavoured to restrain the *Students* from that alleadged disorder, and that the only three persons who were guilty thereof. *Viz.*, *James Grant*, *James Irvine*, and *James Lesly*, were publickly extruded the Colledge, for the same, And discharged to be received back again to the Colledge, untill first they made satisfaction to the Provost of *Aberdeen* for that Offence, and none of them have been received within the Colledge since that time.

And whereas, It is pretended, That the punishment inflicted by the Masters, was only a *Sham*; And that they delayed to inflict any punishment untill they were informed, That a Council process was raised against them; And that Mr. *Robert Paterson* by his constant meddling in all the Towns affairs, is the chief Instrument and Occasion of all the Disorders that happened in that place these several years bygone. It is answered, That it is evident by the probation, that the punishment inflicted was the most Universal, Impartial, Severe, and Ignominious Censure, that ever was inflicted in these Colledges; None of the guilty persons having escaped the same, neither have the Masters power by the foundation to inflict any greater punishment then that was. *2do.* It is an Act of the greatest malice, and disingenuity that can be imagined for the Pursuers, to Object the Masters, Their delaying to inflict that punishment for some days, Because the Masters apprehending justly, that this disordor deserved a more severe punishment then they were capable to inflict, They Applied to the Magistrates for their Advyce and Concurrance anent the Way and Manner of punishing of what was past; and laying down of methods for preventing the like disorder for the future; And had several Trysting and Communings with them from time to time thereanent, during all which space, the Masters were endeavouring to get information and probation anent the whole *Students*, that had been any wayes accessory to that Rabble; And having gotten full and exact probation against them all, They punished the whole *Students* in both Colledges, in manner above represented, the very next day after the trysting and communing was given over; And as the punishment was inflicted many days before the raising of this lybel; So it is most false, That the Masters knew of any Application made to the privy Council, before the inflicting of the laid punishment, the *Magistrats* having denyed the same to them, at all their meetings and communings.

And as to Principal *Paterson*, his alleadged meddling in the Town affairs; It is answered, That the Principal of the *Marischal* Colledge being, past all memory, in use to be electted a Counsellour of the Burgh of *Aberdeen*, and the said Mr. *Robert* being electted a

Counsellor

Counsellor in the years 1686, 1687, and 1688, when [illegible] in upon the Town Counsel, And to have the Town [illegible] Chappel to the Priests, Mr. *Robert Paterson* did openly oppose and resist the same; for which he was severely threatened by those who were then eminent in the Government. And for which he can produce clear and unquestionable documents. And a Proclamation having then come out, discharging all Oaths to be imposed upon any person. The Principals and Masters of both these Colledges did meet, and formally resolved, notwithstanding thereof to cause their Students swear to maintain and defend the Protestant Religion before they were *Graduat*, and actually made the Students of both Colledges, swear the same; And for doing whereof, there was an complaint raised against them all before the Privy Council, at the then Kings Advocats instance concluding deprivation and other punishments, as is clear by a double of the Letters produced in process. And when *Buchan* and *Cannon* did attempt to attack the Town of *Aberdeen*, The Principal and haill masters of that Colledge did chearfully take Arms in defence of the place, when most of these pursuers were not to be seen as is weel known to some of the honourable Privie Council who were then there present, and others of his Majesties Officers who were there likewayes present at the time, And this is all the medling that can be obtruded against Mr. *Robert Paterson*.

And as to that pretence, that Mr. *Robert Paterson* is a Commissar, and so cannot attend both Charges. It is answered, that this being *jus tertii*, to the pursuers their libelling the same as a Crime against Mr. *Robert Paterson* demonstrates their unjust & implacable malice against him, and the Sallarie due to the Principal of the *Marischal* Colledge, being less then 500 Merks *per annum*. No person is able to live on such a mean Sallary, nor was there ever any Principal in that Colledge, who had not an other Imployment besides; And this individual objection was propponed before the late Visitation of the Colledge at *Aberdeen*, and justly repelled upon the account foresaid, And the instance given anent Commissar *Wishart* is most calumnious, Commissar *Wishart* having been both Commissar, and one of the Regents of the Colledge of *Edinburgh* for 18 years at least, Untill by reason of his old Age, he thought fit to demit his place as Regent; And albeit there be a competent Sallary due to the Principal of *Edinburgh* Colledge, *Viz.* 2000. merks, and a dwelling houle; Yet the saids Principals have alwayes been one of the Ministers of the Town, and received a distinct Stipend for the same.

And seeing the Masters of both these Colledges, did all unanimously comply with, and submit to their Majesties Government, which none of the other Colledges of the Kingdome did. And that it is evident from the premisses, that no Masters in the World could have done more to have prevented that disorder, and to punish all that were accessorie thereto, with exemplar severitie then these Defenders did, They ought to be assoylied from this groundless and malicious complaint, And the Pursuers ordained to refound the expence they have been put too; Especially, seeing by an Act of privy Council produced in process, The Magistrats are obliged to apprehend, And secure all Students who commit any disorder within the Burgh. And Albeit it be acknowledged in their own Lible, That both the time of the Tumult, and dayly thereafter, the guilty students were frequently walking on their streets, yet they used not the least endeavours to apprehend or secure any of them.

The Lords of Their Majesties Privy Council, are Humbly Desired to Consider, That there is no Probation as yet adduced, For proving that part of the Pursuers against Cruickshank, and Gellie; And therefore, before any Report be taken in, That Their Lordships would Ordain the Witnesses to be examined, Who it is presumed, will prove against them, in the Terms Lybelled.

EDINBURGH
25 JUL 1967
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